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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,091	10/17/2003	Sudhin Datta	2002B141/2	9100

23455 7590 11/13/2006

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EXAMINER

NUTTER, NATHAN M

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,091

Applicant(s)

DATTA ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 31-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 31-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In response to the amendment filed 2 October 2006, the following is placed in effect.

The provisional rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-64 of copending Application No. 10/962,312, is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,288,171, is hereby expressly withdrawn.

The provisional rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-32 of copending Application No. 10/688,091, is hereby expressly withdrawn.

The provisional rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/896,549, is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,639,020, is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,750,284, is hereby expressly withdrawn.

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The rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U.S. Patent No. 6,867,260, is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,916,882, is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 under 35 U.S.C. 102(e) as being anticipated by Finerman et al (US 6,288,171), is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 under 35 U.S.C. 102(e) as being anticipated by Brant (US 6,639,020), is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 under 35 U.S.C. 102(e) as being anticipated by Dharmarajan et al (US 6,750,284), is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 under 35 U.S.C. 102(e) as being anticipated by Datta et al (US 6,867,260), is hereby expressly withdrawn.

The rejection of claims 1-29 and 31-35 under 35 U.S.C. 102(e) as being anticipated by Brant (US 6,916,882), is hereby expressly withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-29 and 31-35 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Datta et al (WO 00/01766).

The reference to Datta et al teaches the production of a continuous phase of polypropylene having a melting point of 110°C and a heat of fusion greater than 75 J/g, having dispersed therein a second polymer component that may have ethylene/ α -olefin present as less or equal to 10 weight % of the blend and may, further, have an additional polymer having a heat of fusion of less than 75 J/g. Note the paragraph bridging page 5 to page 6 for the employment of isotactic polypropylene as the FPC. Further, note page 6 (lines 11-24) and page 7 (lines 2-19) for the FPC. Note page 7 (line 20) to page 8 (line 17) and page 9 (lines 1-18) for the SPC. Note page 10 (lines 3-13) for the SPC2 employed, and page 10 (line 25) to page 11 (line 9) for the combination. Further, note the many Examples and claims of the reference.

Response to Arguments

Applicant's arguments filed 2 October 2006 have been fully considered but they are not persuasive.

With regard to the rejection of claims 1-29 and 31-35 under 35 U.S.C. 102(b) as being clearly anticipated by Datta et al (WO 00/01766), the third copolymer thereof, designated as SPC2, has propylene sequences that are effective for co-crystallization as shown at page 10 of the reference. The reference teaches a $\Delta H_f < 25$ J/g in the broader concept of $\Delta H_f < 75$ J/g that embraces same. The reference teaches the composition comprising three polymer constituents together regardless of whether they are characterized as a compatibilizer or as SPC2. Since the polymers are otherwise

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identically disclosed by the reference, characterization as a compatibilizer or any other designation is not necessary not lends patentability to the claims since they would provide identical benefit of inclusion. The reference teaches a heterophasic composition, since the FPC is the continuous phase with the SPC as the discrete phase.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

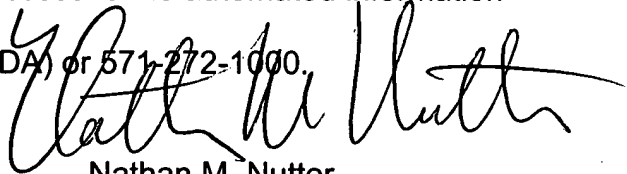
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan M. Nutter
Primary Examiner
Art Unit 1711

nmn

8 November 2006